

NOT TO BE PUBLISHED

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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Lassen)

THE PEOPLE,

Plaintiff and Respondent,

v.

ALONSO MCKINNEY,

Defendant and Appellant.

C044292

(Super. Ct. No. CH019390)

Defendant Alonso McKinney entered a negotiated plea of guilty to battery by an inmate on a non-confined person. (Pen. Code, § 4501.5.) Defendant waived preparation of a probation report, and he was sentenced immediately following entry of his plea. Pursuant to the terms of the plea agreement, the trial court imposed a two-year prison term, to be served consecutively to his current term, with a \$200 restitution fine and an equivalent fine that was suspended pending successful completion of parole. (Pen. Code, §§ 1202.4, subd. (b), 1202.45.)

We appointed counsel to represent defendant on appeal. Counsel filed an opening brief that sets forth the facts of the

case and requests this court to review the record and determine whether there are any arguable issues on appeal. (*People v. Wende* (1979) 25 Cal.3d 436.) Defendant was advised by counsel of the right to file a supplemental brief within 30 days of the date of filing of the opening brief.

Defendant filed a supplemental brief in which he makes a short and somewhat ambiguous statement about the appeal. First, it appears that defendant alleges a due process violation based on prison grievance procedures, a claim that is consistent with statements he made in his notice of appeal. Whatever the specific nature or merits of this issue, it concerns matters outside the record of the instant conviction. Defendant also suggests that the sentence and fine are illegal and asks this court to review these matters. But both the prison term and the amount of the fine were designated as part of the negotiated plea agreement, and the record does not reveal any sentencing error.

Finally, defendant claims there was "no mental assessment[] regarding [his] sentencing." Defendant's claim may relate to his assertion in the notice of appeal that he was "medicated . . . during sentencing." To the extent he wishes to challenge the validity of the plea itself, he may not do so on appeal because he did not obtain a certificate of probable cause. (See Pen. Code, § 1237.5.) Further, it appears defendant is again referring to matters outside the record; the existing record does not support his claim. In fact, he represented in his plea

form that he was not "ill" and had not "taken drugs, medications or alcohol in the last 18 hours."

Having undertaken an examination of the entire record, we find no arguable error that would result in a disposition more favorable to defendant.

DISPOSITION

The judgment is affirmed.

DAVIS, J.

We concur:

SIMS, Acting P.J.

HULL, J.